

WELLS COUNTY LOCAL COURT RULES

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LR90-TR-79-01 Selection of a Special Judge Pursuant to TR 79(H)

Pursuant to TR 79(D) - Within seven (7) days of the notation on the Chronological Case Summary (CCS) of an Order granting a change of judge or an order of disqualification, the parties may agree to the appointment of an eligible special judge. An eligible special judge is a judge, a full-time judicial officer, or a senior judge assigned to the Court.

The agreement of the parties must be in writing and filed in the Court where the case is pending.

If the selection of a special judge is not agreed upon, then the remaining full-time judge in the County shall be named as special judge. If that judge cannot serve, then the Clerk shall appoint a special judge, on a rotating basis, from the remaining full-time judges within the district as follows:

Adams Circuit Court; Adams Superior Court; Huntington Circuit Court; Huntington Superior Court; Wabash Circuit Court; Wabash Superior Court; Wells Circuit Court; and Wells Superior Court.

If that judge cannot serve, then the Clerk shall continue the appointment process until a special judge is selected.

If no judge is eligible to serve as special judge, or if the particular circumstances of the case warrants the selection of a special judge by the Indiana Supreme Court, then the Court shall certify that fact to the Indiana Supreme Court.

(Amended effective January 1, 2013)

LR90-CR2.2-01 Criminal Case Assignments

(A) Case Assignment

For crimes committed on or before June 30, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Class C Felony or greater shall be assigned to the Wells Circuit Court. All misdemeanor criminal cases not associated with a Felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

For crimes allegedly committed on or after July 1, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Level 5 Felony or greater shall be assigned to the Wells Circuit Court. All criminal misdemeanor cases not associated with a Level 5 charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

(B) Refiling and Subsequent Filings

When the State of Indiana dismisses a criminal cause and later chooses to refile the cause, or to refile another charge related to the incident which was the basis for the original charge, the case shall be assigned to the court from which the original dismissal was taken.

(C) Reassignment

Where a change of judge is granted pursuant to Ind. Criminal Rule 12(B) or an order of disqualification or recusal is entered, the case shall be reassigned pursuant to the Ind. Criminal Rule 13(C) as follows:

1. When the presiding judge of Wells Circuit Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Superior Court and given a Wells Superior Court case number.
2. When the presiding judge of Wells Superior Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Circuit Court and given a Wells Circuit Court case number.
3. In the event that a reassignment cannot be accomplished as set forth above, the Clerk shall appoint a Special Judge from the following list, comprising courts contiguous to, and within the same administrative district as, Wells County.

The Judge of the Adams Circuit Court
The Judge of the Adams Superior Court
The Judge of the Huntington Circuit Court
The Judge of the Huntington Superior Court
The Clerk shall select the first judge for the first case requiring assignment after adoption of these rules and selecting each judge thereafter on a rotational basis and in order of their placement on this list.

(D) Sitting of the Judges

The judge of the Wells Circuit Court may sit as judge of the Wells Superior Court in all criminal matters when the judge of the Wells Superior Court is unavailable, without further request or consent. The judge of the Wells Superior Court may sit as judge of the Wells Circuit Court in all criminal matters when the judge of the Wells Circuit Court is unavailable, without further request or consent.

(E) Supreme Court Appointment

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall then be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes the unique circumstance presented in such proceeding requires appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.

(As amended effective July 1, 2014)

LR90-CR00-01 Bail in Domestic Violence Cases Filed In Wells Superior Court

Inasmuch as Article I, Section 17 of the Indiana Constitution provides that all criminal offenses other than murder or treason shall be bailable, the Wells Superior Court now establishes the following procedures and bond schedule for Domestic Violence Offenses filed in Wells Superior Court:

1. All prior orders of Wells Superior Court establishing bonds are hereby set aside insofar as they may be in conflict with this Rule.
2. For purposes of this Rule, Domestic Violence Offenses shall include the following:
 - a. Domestic Battery, as a Class D Felony or Class A Misdemeanor.
 - b. Battery of a spouse, intimate partner (as defined by 18 U.S. Code, sec. 2266) or a child as a Class D Felony or a Class A Misdemeanor.
 - c. Invasion of Privacy involving a spouse or intimate partner.
 - d. Stalking.
 - e. Telephone Harassment involving a spouse or intimate partner.
 - f. Residential Entry of a spouse's or intimate partner's residence.
3. The initial bond for the above listed Domestic Violence Offenses shall be \$25,000 and shall be posted by a surety or 100% cash. No ten percent cash bond shall be posted.
4. Unless, at the initial hearing of the Defendant or at a subsequent bond reduction hearing if one is held, the alleged victim of the offense is present or there is proof that the alleged victim has been notified of the hearing and unless the State provided at such hearing clear and convincing evidence that the Defendant poses a risk to the physical safety of another person or the community (I.C. 35-33-8-5) the Court shall, upon request of the Defendant, reduce the Defendant's bond to the amount the Court's standard bond schedule requires for the class of offense had it not been a Domestic Violence Offense. The Court may also add additional conditions of release to the bond, including, but not limited to:
 - a. Anger management counseling.
 - b. Substance abuse counseling.
 - c. Electronic monitoring.
 - d. GPS tracking.
 - e. Juris monitors.
 - f. No contact or no violent contact protective order.
 - g. Prohibition of possession of firearms.
 - h. Periodic reporting to a probation officer

5. In determining whether, or to what extent, the Defendant's bond should be reduced; the Court may consider one or more of the following factors:

- a. Any history of domestic violence as documented by police reports and/or convictions.
- b. Whether the frequency or severity of violence appears to be escalating.
- c. Threats of retaliation either directly toward the victim or indirectly toward the children.
- d. Use or threatened use of a weapon.
- e. Defendant's prior criminal history.
- f. Danger posed to the public, including threats to victim's family or co-workers.
- g. Defendant's alleged use or possession of alcohol or a controlled substance.
- h. Defendant's access to the victim.
- i. Defendant's mental and physical health.
- j. Defendant's threats of suicide

LR90-CR00-02**Bail Bond Schedule for Wells Superior Court**

(A) In all criminal cases filed in Wells Superior Court except Domestic Violence Offenses as defined in LR90-CR00-01, a defendant who has not failed to appear in the past may execute a bail bond by depositing cash in an amount equal to ten percent (10%) of the aggregate bond. In such case, the following conditions shall apply to said bond:

1. An administrative fee of ten percent (10%) or fifty dollars (\$50), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana;
2. The bond must be posted in the name of the defendant;
3. The bond is considered a personal asset of the defendant; and
4. Upon conviction, the bond shall be available for payment of court costs, restitution, fine, court-ordered fees, and reimbursement of public defender fees to the county, in the above order of priority. Any balance remaining shall be refunded to the defendant.

(B) Except as provided in LR 90-CR00-02, in all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or prior to June 30, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Habitual Offender	\$50,000.00
Class A Felony	\$30,000.00
Class B Felony	\$20,000.00
Habitual D Felony Offender	\$15,000.00
Class C Felony	\$10,000.00
Class D Felony	\$5000.00
Class A Misdemeanor	\$1500.00
Class B Misdemeanor	\$1000.00
Class C Misdemeanor	\$500.00

In all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or after July 1, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Level 1 Felony	\$30,000.00
Level 2 or 3 Felony	\$20,000.00
Level 4 or 5 Felony	\$10,000.00
Level 6 Felony	\$5,000.00
Class A Misdemeanor	\$1,500.00
Class B Misdemeanor	\$1,000.00
Class C Misdemeanor	\$500.00

(C) Anyone who is intoxicated at the time of incarceration should not be released until sober.

(D) In any case where cash bond is deposited, the receiving officer shall advise the person posting such bond of the above-stated conditions; however, failure to advise any such person of these conditions shall not constitute a waiver of said conditions.

(E) Upon issuance of a criminal bench warrant, the amount of bail specified in this rule shall be endorsed on the warrant.

(F) The Court may increase or diminish the amount of bond specified under this rule or permit the posting of a cash bond in lieu of accepting any property or surety bond as required by this rule in any justifiable case.

(G) Any person charged with a violent crime resulting in bodily injury shall be prohibited from any direct or indirect contact with the alleged victim for ten (10) days from the date bail is posted or until the initial hearing, whichever occurs first. (I.C. 35-33-8-3.6).

(As amended effective July 1, 2014)

LR90-CR00-03**Bail Bond Schedule for Wells Circuit Court**

This bond schedule applies to all cases filed in the Circuit Court of Wells County, Indiana to the setting of bond on warrants issued on all criminal informations or indictments, unless otherwise specified by court order or on the warrant. On all warrantless arrests, bail will be determined at the initial hearing or upon a determination of probable cause.

OFFENSE CLASS	BAIL AMOUNT	BOND AMOUNT & METHOD
Murder	No Bond	No Bond
Habitual Offender & Habitual Substance Offender	\$50,000	\$50,000 Cash or Surety
Class A or Level 1 Felony	\$30,000	\$10,000 Cash Bond & \$20,000 Surety
Class B or Level 2 or 3 Felony	\$20,000	\$10,000 Cash Bond & \$10,000 Surety
Class C or Level 4 or 5 Felony	\$10,000	\$5,000 Cash Bond & \$5000 Surety
Class D or Level 6 Felony	\$5,000	\$5,000 Cash Bond
Sex Offenses: · IC 35-42-4 et seq.	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 hours of arrest.
Crime of Domestic Violence · See exceptions below	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 of arrest.
Class A Misdemeanor	\$1,500	\$1,500 Cash Bond
Class B Misdemeanor	\$1,000	\$1,000 Cash Bond
Class C Misdemeanor	\$500	\$500 Cash Bond

Bonds are Cumulative: If multiple charges are filed, the bond applied shall be the total amount required for all charges.

Impaired Persons: No person shall be released with a breath alcohol level of .08% or higher or who appears to be under the influence of alcohol or drugs or a combination of both. The Sheriff's Department shall use the chart set forth at I.C. 35-33-1-6 to determine the minimum number of hours an impaired person should be detained prior to release.

Exceptions to bond schedule: The bond schedule shall not be used for, nor be applicable to the following charges:

- 1) Sex offenses
 - a. An individual charged with a sex offense (IC 35-42-2) shall not be admitted to bail until the Court has conducted a bail hearing.

- 2) Domestic violence offenses:
 - a. An individual charged with a crime of domestic violence shall not be admitted to bail until the Court has conducted a bail hearing.
 - b. IC 35-33-1-1.7 defines a crime of domestic violence as:
 - i. Having as an element either the use of physical force or the threatened use of a deadly weapon, and
 - ii. Was committed against:
 1. Defendant's current or former spouse, parent or guardian;
 2. a person with whom the Defendant shared a child in common;
 3. a person who was cohabitating with or had cohabitated with as if a spouse, parent or guardian; or
 4. a person who was or had been similarly situated to a spouse, parent, or guardian of the Defendant.

Methods of posting bail: Depending on the type and level of the crime(s) charged, a defendant may post bail in one of the four following ways.

1. Cash Bond: The defendant may execute a bail bond by depositing with the Clerk of the Court (Through the Sheriff of Wells County) cash in an amount not less than ten percent (10%) of the cash bail.
 - a. Whenever a cash bond is deposited, the receiving officer or the Clerk of the Court shall advise the defendant and the person depositing the cash on the defendant's behalf of the following:
 - i. The deposit is considered to be a personal asset of the defendant
 - ii. Upon conviction, the bond shall be available for the payment of court costs, fines, restitution, public defender fees and may also be applied to attorney fees. Any remaining balance shall be returned to the defendant.
 - iii. An administrative fee of ten percent (10%) or fifty dollars (\$50.00), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana.
 - iv. That should the Defendant fail to appear the Court may enter a judgment for the full bail amount after notice and hearing.
2. Surety Bond: The defendant may execute a bail bond with sufficient solvent sureties in an amount equal to the surety bond amount.
3. Cash: The defendant may post with the Clerk the full bail amount.
4. Real Estate Bond: All Real Estate bonds shall be granted only after notice is sent to the prosecuting attorney by the defendant or his counsel and a hearing is conducted to determine whether the value of the real estate is of sufficient value to satisfy the full bail amount.

Adjustment of Bond: All bonds are subject to being adjusted by the Court at a hearing pursuant to statute and application by counsel of record.

(As amended effective July 1, 2014)

LR90-AR00-1**Failure to Appear**

In all cases, regardless of type, to be heard in Wells Superior Court, if a party or counsel for a party does not appear within fifteen (15) minutes after the scheduled time for the commencement of any proceeding of which the party or counsel for the party had notice, the Court shall deem the party to have failed to appear. The Court shall note the failure to appear and shall grant whatever relief the Court deems reasonable and equitable, including but not limited to proceeding with trial, dismissal of an action, or ordering a bench warrant. A dismissal shall be without prejudice the first time but shall be with prejudice upon a second failure to appear by the complaining party or their counsel.

LR90-AR01-1**Caseload Allocation Plan for Wells Circuit and Superior Courts****I Criminal, Infraction and Ordinance Violation Cases**

Criminal Cases shall be filed pursuant to LR90-CR2.2-01(A). All infraction and ordinance violation cases not associated with a Felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

II Probate and Related Cases

All Estate, Guardianship, Paternity, Adoption and Trust cases shall be assigned to the Wells Circuit Court.

III Juvenile Cases

All juvenile cases of every sort shall be assigned to the Wells Circuit Court.

IV Civil Cases

Except as otherwise specifically set out in this Rule, civil cases of all sorts, including domestic relations cases, shall be assigned to whichever court the attorney or the self-represented litigant filing the case designates to the Clerk. Provided, however, that petitions for dissolution of a marriage filed by a self-represented litigant where there are unemancipated children of the marriage, real property or unresolved property division issues, shall be filed in Wells Circuit Court.

V Small Claims and Protective Order Cases

All small claims shall be assigned to the Wells Superior Court.

Protective order cases (including Workplace Violence Protective Orders), shall be assigned to whichever court the attorney or the self-represented litigant filing the case designates to the Clerk.

VI Mental Health

Mental Health cases shall be assigned to the Wells Circuit Court.

VII Refiled Cases

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

VIII Continuing Monitoring

Not later than May 1 each year, all Judges of the courts of record in Wells County shall meet and shall evaluate each court's caseload data as reported to the Division of State Court Administration.

If, in a given year, the weighted caseload statistics from the Division of State Court Administration indicate that a caseload variance among these courts exceeds forty percent (40%), the courts of record in Wells County shall submit a revised Caseload Allocation Plan pursuant to the Indiana Supreme Court Division of State Court Administration's "Schedule for Submission of Caseload Plans Pursuant to Administrative Rule 1(E).

(As amended effective July 1, 2014)

LR90-AR15-1 Court Reporter Services

Pursuant to Rule 15 of the Administrative Rules of the Indiana Supreme Court, the Wells Circuit and Superior Courts do hereby adopt the following joint local rule:

A copy of this rule shall be certified to the Indiana Supreme Court and Court of Appeals. Copies of this rule shall be located in the Clerk's Office, the office of each court and on each court bench. A copy of this rule shall also be filed with the Division of State Court Administration.

Section One. Definitions The following definitions shall apply under this rule:

(1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.

(9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; e.g. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Wells County.

(11) County indigent transcript means a transcript that is paid for from county funds and is for use on behalf of a litigant who has been declared indigent by a court.

(12) State indigent transcript means a transcript that is paid for from state funds and is for use on behalf of a litigant who has been declared indigent by a court.

(13) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

Section Two. Salaries and Per Page Fees

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours and overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a county indigent transcript shall be Twenty-five Cents (\$0.25); the court reporter shall submit a claim directed to the county for the preparation or copying of any county indigent transcripts.

- (3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a state indigent transcript shall be One Dollar (\$1.00).
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a private transcript shall be One Dollar (\$1.00).
- (5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
- (a) The reasonable market rate for the use of equipment, work space and supplies;
 - (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
 - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.
- (3) A court reporter shall reimburse the county for the use of equipment, work space and supplies for the preparation of all private transcripts.

LR 90–JR2–01

Jury Pool

The jury commissioner of the Wells Circuit Court and the jury commissioner of the Wells Superior Court shall compile the annual jury pool required by Indiana Jury Rule 2 by randomly selecting names from the Master List for Jury Pool Assembly provided by the Division of State Court Administration and as established by Order of the Indiana Supreme Court in Case No. 94S00-0501-MS-19 dated October 26, 2005.

LR 90–JR4–01**Two-Tier Jury Notice and Summons Procedure**

The Wells Circuit Court and the Wells Superior Court hereby establish a two-tier jury notice and summons procedure pursuant to Rule 4 of the Indiana Jury Rules.

The Wells Circuit Court and the Wells Superior Court shall summon jurors under the two-tier notice and summons procedure set out in Rule 4(b) of the Indiana Jury Rules.

LR 90–FL00–1**Families in Transition Program**

Within sixty (60) days of the filing of an action for dissolution of marriage, legal separation or to establish paternity which involves one or more minor or unemancipated child Each party to such action shall attend and complete the **Families in Transition** program administered and presented by Family Centered Services, Inc., or such other program that the Court may, from time to time, designate. In all such cases the Court shall provide an information sheet that shall contain all necessary information for compliance with this rule. Each party shall pay the required fee for the program. A party who resides more than seventy-five (75) miles from the Wells County courthouse may apply for leave of the Court to complete a similar program nearer to his or her residence. Each party must file a certificate of attendance for each party with the Court before a final hearing may be held. A parent or putative parent who is incarcerated and ineligible for work release is exempt from Rule. A parent or putative parent who resides more that seventy-five (75) miles from the Wells County courthouse and has no similar program within seventy-five (75) miles of his or her residence may petition the Court for relief from this Rule.

Any exception to this rule shall only be granted by express order of the Court after a showing of good cause for such exception.

The Courts shall have full contempt powers, including incarceration, to enforce compliance with this Rule.

LR 90–FL00–02**Good Faith Mediation**

In an action for dissolution of marriage, legal separation or to establish paternity, if child custody or visitation is to be contested at the final hearing, except for good cause shown the Court shall not allow the case to be submitted at final hearing until the parties have participated in private mediation with a mediator approved by the Court and the mediator submits to the Court a final report indicating that the parties have mediated in good faith and that the mediation process is completed.